

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Diane Cacciabauda,)	
)	
Plaintiff,)	
)	
v.)	No. FILED: APRIL 2, 2008
)	08CV1889 PH
Leading Edge Recovery Solutions,)	JUDGE HIBBLER
LLC, an Illinois limited liability company,)	MAGISTRATE JUDGE COLE
)	
Defendant.)	<u>Jury Demanded</u>

COMPLAINT

Plaintiff, Diane Cacciabauda, brings this action under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), for a declaration that Defendant's debt collection practices violate the FDCPA, and to recover damages for Defendant's violation of the FDCPA, and alleges:

JURISDICTION AND VENUE

1. This Court has jurisdiction pursuant to § 1692k(d) of the FDCPA, and 28 U.S.C. § 1331.
2. Venue is proper in this District because Defendant resides and transacts business here.

PARTIES

3. Plaintiff, Diane Cacciabauda ("Cacciabauda"), is a citizen of the State of New York, from whom the Defendant attempted to collect a delinquent consumer debt allegedly owed originally to Direct Merchants Bank and now allegedly owed to Worldwide Asset Purchasing II, LLC ("Worldwide").

4. Defendant, Leading Edge Recovery Solutions, L.L.C. ("LERS"), is an Illinois limited liability company, with its principal place of business in Chicago, Illinois, which acts as a debt collector, as defined by § 1692a of the FDCPA, because it regularly uses the mails and/or the telephone to collect, or attempt to collect, delinquent consumer debts, including delinquent consumer debts from its principal place of business in the Northern District of Illinois. LERS was acting as a debt collector as to the debt it attempted to collect from Ms. Cacciabauda.

FACTUAL ALLEGATIONS

5. Ms. Cacciabauda is an elderly woman who fell behind on paying her bills. Ms. Cacciabauda thus sought the assistance of legal aid attorneys at the Legal Advocates for Seniors and People with Disabilities ("LASPD"), regarding her financial difficulties. One such debt Ms. Cacciabauda was unable to pay was the debt she owed originally to Direct Merchants Bank, but which she now allegedly owes to Worldwide. During January 2007, Defendant LERS began attempting to collect the Worldwide debt via collection letters and telephone calls

6. On December 7, 2007, Defendant LERS sent Ms. Cacciabauda a form collection letter attempting to collect the Worldwide debt. Accordingly, Ms. Cacciabauda sent the form collection letter to her attorneys at LASPD to handle for her. A copy of this letter is attached as Exhibit A.

7. On December 18, 2007, one of Ms. Cacciabauda's attorneys at LASPD sent Defendant LERS a letter advising it that Ms. Cacciabauda was represented by counsel and requesting that, based upon Ms. Cacciabauda's financial difficulties and

the fact that her income was protected from attachment by federal law, LERS cease further collection activities. A copy of this letter is attached as Exhibit B.

8. Nonetheless, despite having notice that Ms. Cacciabauda was represented by counsel, LERS continued to call Ms. Cacciabauda directly on a nearly daily basis through January 24, 2008. Most of these telephone calls were from LERS' debt collectors, "Michael Cunningham" and "Michael Nelson."

9. Since LERS continued its attempts to collect the Worldwide debt despite having been notified that Ms. Cacciabauda was represented by counsel and her income was protected by law, on or about January 24, 2008, one of the paralegals at LASPD contacted LERS on Ms. Cacciabauda's behalf. LASPD's paralegal spoke with one of LERS' debt collectors "Oscar" who transferred her to the purported "overseer of the account," "Donnell Williams."

10. During the January 24, 2008 call, LERS' Mr. Williams confirmed that LERS had received LASPD's December 18, 2007 letter of representation, but stated that Defendant LERS "does not work with third party agencies." LASPD's paralegal advised LERS' collector again that Ms. Cacciabauda was represented by counsel, her income was protected by law and thus, LERS would not be able to collect on any potential judgment entered against her, and that LERS must abide by the notice to cease and desist (Exhibit B), because failing to do so violates the FDCPA. LERS' debt collector said "Have yourself a great day ma'am" and hung up.

11. Thereafter, on February 11, 2008, LERS sent another form collection letter directly to Ms. Cacciabauda demanding payment of the Worldwide debt. A copy of this

letter is attached as Exhibit C.

12. All of Defendant LERS' collection actions at issue occurred within one year of the date of this Complaint.

13. Defendant LERS' collection communications are to be interpreted under the "unsophisticated consumer" standard. See, Gammon v. GC Services, Ltd. Partnership, 27 F.3d 1254, 1257 (7th Cir. 1994).

**Violations Of § 1692c Of The FDCPA --
Communicating With A Consumer Represented By Counsel
And Failing to Cease Communications With A Consumer**

14. Plaintiff adopts and realleges ¶¶ 1-13.

15. Section 1692c(a)(2) of the FDCPA prohibits a debt collector from communicating with a consumer if the debt collector knows the consumer is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address. (See, 15 U.S.C. § 1692c(a)(2)). Moreover, § 1692c(c) of the FDCPA prohibits a debt collector from communicating with a consumer if the debt collector has been notified in writing that the consumer wishes the debt collector to cease further communication. See, 15 U.S.C. § 1692c(c).

16. Defendant was notified that Ms. Cacciabaudo was represented by counsel in connection with the Worldwide debt via the December 18, 2007 letter of representation sent by Ms. Cacciabaudo's attorneys on her behalf. Additionally, the letter sent by Ms. Cacciabaudo's attorneys at LASPD informed LERS that it should cease communications. See, Exhibit B.

17. By nonetheless continuing to call Ms. Cacciabaudo on a daily basis for nearly a month after LASPD sent its letter of representation, and by sending the

February 11, 2008 collection letter directly to Ms. Cacciabaudo (Exhibit C), Defendant LERS violated § 1692c(a)(2) and § 1692c(c) of the FDCPA.

18. Defendant's violations of § 1692c of the FDCPA render it liable for actual and statutory damages, costs, and reasonable attorneys' fees. See, 15 U.S.C. § 1692k.

PRAYER FOR RELIEF

Plaintiff, Diane Cacciabaudo, prays that this Court:

1. Declare that Defendant's debt collection practices violated the FDCPA;
2. Enter judgment in favor of Plaintiff Diane Cacciabaudo, and against Defendant, for actual and statutory damages, costs, and reasonable attorneys' fees as provided by § 1692k (a) of the FDCPA; and,
3. Grant such further relief as deemed just.

JURY DEMAND

Plaintiff, Diane Cacciabaudo, demands trial by jury.

Diane Cacciabaudo,

By: /s/ David J. Philipps
One of Plaintiff's Attorneys

Dated: April 2, 2008

David J. Philipps (Ill. Bar No. 06196285)
Mary E. Philipps (Ill. Bar No. 06197113)
Philipps & Philipps, Ltd.
9760 S. Roberts Road
Suite One
Palos Hills, Illinois 60465
(708) 974-2900
(708) 974-2907 (FAX)
davephilipps@aol.com

TY7BBD7EC2
Case 1:08-cv-01889
PO Box 129
Linden MI 48451-0129
ADDRESS SERVICE REQUESTED

#1

08CV1889 PH
JUDGE HIBBLER
MAGISTRATE JUDGE COLE

[REDACTED]
Diane Cacciabaudo
[REDACTED]
[REDACTED] NY [REDACTED]
[REDACTED]

LEADING EDGE RECOVERY SOLUTIONS, LLC
5440 N CUMBERLAND AVE STE 300
CHICAGO, IL 60656-1490

December 7, 2007

Account #	Client Reference #	Balance
[REDACTED]	[REDACTED]	\$1,474.71
Original Creditor: DIRECT MERCHANTS BANK		

*** Detach Upper Portion and Return with Payment ***

NO LEADERSHIP

Account #	Client Reference #	Balance
[REDACTED]	[REDACTED]	\$1,474.71
Creditor: WORLDWIDE ASSET PURCHASING II, LLC		

Dear Diane Cacciabaudo,

Your delinquent DIRECT MERCHANTS BANK account has been purchased by WORLDWIDE ASSET PURCHASING II, LLC and placed with our company for collection.

We have done everything in our power to cooperate with you in the satisfaction of your outstanding balance. You have not cooperated with us.

There is little indication on your record of whether or not you wish to settle this matter. Your creditor insists we collect your account without further delay. In the event you are unable to remit the balance in full, please contact our office to make alternate arrangements.

If you fail to respond to this notice, I will assume that you do not wish to pay this account.

Sincerely,

Collections Department
(800) 663-4707 Ext. 9999

Hours of Operation:

Monday-Thursday 8:00am - 9:00pm CST / Friday 8:00 am - 5:00 pm CST / Saturday 8:00 am - 12 Noon CST

This is an attempt to collect a debt. Any information obtained will be used for that purpose.
This information is from a debt collector.

PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION

EXHIBIT
A

Legal Advocates for Seniors and People with Disabilities

205 W. Monroe, 4th Floor, Chicago, IL 60606

312-263-1633

Fax: 312-263-1637

E-Mail: info@mylegaladvocates.org

December 18, 2007

Leading Edge Recovery Solutions, LLC
Card Member Services
5440 N Cumberland Ave., Suite 300
Chicago, IL 60656-1490

08CV1889 PH
JUDGE HIBBLER
MAGISTRATE JUDGE COLE

Re: Diane Cacciabauda

Consumer's account: SS No [REDACTED]

LASPD file number: [REDACTED]

Dear Sir or Madam:

I am writing to inform you that this office now represents the above-named individual(s) who has recently received a debt collection communication from your company. Legal Advocates for Seniors and People with Disabilities (LASPD) is a nationwide program of the Chicago Legal Clinic, Inc., a not-for-profit law office providing low-cost legal services to the public.

I am requesting that you review the attached affidavit from our client(s) and cease all further communication with our client(s). As you will see, all of the income of our client(s) is protected from attachment by Federal law. We are therefore requesting that you accept the validity of the affidavit and cease all further collection activities.

If you have any questions, please contact Legal Advocates for Seniors and People with Disabilities at 312-263-1633.

Very Truly Yours,



Jeff Whitehead
Supervising Attorney

Enclosures



Legal Advocates for Seniors and People with Disabilities

205 West Monroe, 4th Floor, Chicago, IL 60606

312-263-1633

Fax: 312-263-1637

E-Mail: LASPD@clclaw.org

Edward Grossman, Executive Director

Marta C. Bukata, Deputy Director

Jeff Whitehead, Supervising Attorney

CONSENT FORM FOR LEGAL REPRESENTATION

Please allow this form to express my (our) formal consent for Legal Advocates for Seniors and People with Disabilities (LASPD) to provide certain legal representation on my (our) behalf with respect to my (our) debts. LASPD, through its agents, has authority to communicate with all creditors on my (our) behalf. All communication regarding my (our) debts from any and all of my (our) creditors shall be made only through the agents of LASPD. This consent form shall be valid until revoked in writing by the undersigned.

PRINTED NAME: Diane Caccabardo
First Client

SIGNED: Diane Caccabardo
First Client

DATED: 3-27-07

PRINTED NAME: _____
Second Client

SIGNED: _____
Second Client

DATED: _____

SUBSCRIBED AND SWORN TO BEFORE ME THIS 27 DAY
OF MARCH, 2007

Marie A. Tuohy
NOTARY PUBLIC

MARIE A. TUOHEY
Notary Public, State of New York
No. 01TU6111009
Qualified in Queens County
My Commission Expires 05/31/ 2008

Please help us to help you. The best way to give creditors a full understanding of your financial profile is by filling out this affidavit as **completely, neatly and accurately** as possible. This will greatly help our communication with your creditors. Thank you.

AFFIDAVIT OF INCOME AND EXPENSES

A. SOURCES OF INCOME AND GROSS MONTHLY AMOUNTS - MONEY RECEIVED BY YOU (BEFORE DEDUCTIONS)			
SOURCE OF INCOME	AMOUNT	SOURCE OF INCOME	AMOUNT
Social Security, Supplemental Security Income (SSI) or Retirement, Survivors, Disability Insurance (RSDI)	783.00	Wage Income	
Other Disability Benefits		Rental Income	
Veterans' Benefits		Interest Income	
Workers' Compensation		Other Income (if any, please describe)	
Public Aid			
Alimony or Child Support			
Pension Benefits (ERISA from company retirement plans) or IRA's	150.00		
Unemployment Compensation and Benefits		TOTAL INCOME	\$ 933.00

B. MONTHLY EXPENSES - MONEY YOU PAY TO OTHERS			
TYPE OF EXPENSE	MONTHLY AMOUNT	TYPE OF EXPENSE	MONTHLY AMOUNT
Rent/Mortgage <i>Please circle one.</i>	521.83	Other Transportation Costs	
Utilities (gas, electric, telephone, cell phone, water, etc.)	55.50	Food	75-100 w/ky
Real estate taxes. Be sure to divide the yearly amount by 12.		Clothing	when able small amount
Car payment(s)	100 per month	Medical and Dental	650 every other month for med various dr bills + co pay
Car Insurance			
Car Gas & Maintenance	100 per month		

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Health Insurance	938.00
Life Insurance	taken care of by monthly checks
Religious Affiliation Donations	
Debt service (i.e., credit card and other loan payments)	
Other - please itemize	
TOTAL EXPENSES	
802.00	

Have you ever co-signed a financial document? In other words, have you ever signed a document with another person where they, and not you, were going to get something? _____
 If yes, please give us the name of this person, the name of the creditor and the type of debt (e.g., a home loan or a car loan):

Do not know

The above-listed information has been carefully provided by me. I have disclosed all of my income and expenses. I understand the purpose of this disclosure and have voluntarily signed it.

PRINTED NAME: Diane Cacciabauda
 First Client

SIGNED: Diane Cacciabauda
 First Client

DATED: 3-27-07

PRINTED NAME: DIANE CACCIABAUDO
 Second Client

SIGNED: _____
 Second Client

DATED: _____

SUBSCRIBED AND SWORN TO ME THIS
 27 DAY OF MARCH, 2007

NOTARY PUBLIC Marie A. Tuohy

MARIE A. TUOHEY
 Notary Public, State of New York
 No. 01116111009
 Qualified in Oneida County
 My Commission Expires 05/31/2008



PO Box 129

Linden MI 48451-0129

ADDRESS SERVICE REQUESTED

08CV1889 PH

JUDGE HIBBLER

MAGISTRATE JUDGE COLE

Diane Cacciabaudo

NY

LEADING EDGE RECOVERY SOLUTIONS, LLC
5440 N GUMBERLAND AVE STE 300
CHICAGO, IL 60656-1490

February 11, 2008

Account #: [REDACTED]	Client Reference #: [REDACTED]	Balance: \$1,537.69
Original Creditor: DIRECT MERCHANTS BANK		

*** Detach Upper Portion and Return with Payment ***

1289-LEAD138TV832C43D7

Account #: [REDACTED]	Client Reference #: [REDACTED]	Balance: \$1,537.69
Creditor: WORLDWIDE ASSET PURCHASING II, LLC		

\$\$\$\$ Save Big Money \$\$\$\$
Settle your bill using your tax return and
SAVE, SAVE, SAVE!

Dear Diane Cacciabaudo,

Your delinquent DIRECT MERCHANTS BANK account has been purchased by WORLDWIDE ASSET PURCHASING II, LLC and placed with our company for collection. We have been authorized by our client to collect the outstanding amount owed to them.

Would you be interested in a settlement at a reduced amount?

CALL MY OFFICE TODAY AT OUR TOLL-FREE NUMBER TO DISCUSS THIS OPPORTUNITY!

This is a special offer specifically solicited to help you clear up your account and our representatives will be happy to work with you on time and terms.

PHONE (800) 663-4707

Sincerely,

Collections Department
(800) 663-4707 Ext. 2024

Hours of Operation:

Monday-Thursday 8:00am - 9:00 pm CST / Friday 8:00 am - 5:00 pm CST / Saturday 8:00 am - 12 Noon CST

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